

1-1 By: Capriglione, et al. (Senate Sponsor - Kolkhorst) H.B. No. 483  
 1-2 (In the Senate - Received from the House May 7, 2015;  
 1-3 May 11, 2015, read first time and referred to Committee on Business  
 1-4 and Commerce; May 24, 2015, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 2;  
 1-6 May 24, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11		X		
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 483 By: Creighton

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the establishment and administration of a state bullion  
 1-22 depository; authorizing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle C, Title 10, Government Code, is  
 1-25 amended by adding Chapter 2116 to read as follows:

1-26 CHAPTER 2116. TEXAS BULLION DEPOSITORY

1-27 SUBCHAPTER A. ESTABLISHMENT AND ADMINISTRATION OF TEXAS

1-28 BULLION DEPOSITORY

1-29 Sec. 2116.001. DEFINITIONS. In this chapter:

1-30 (1) "Administrator" means the bullion depository  
 1-31 administrator appointed under Section 2116.003.

1-32 (2) "Bullion" means precious metals that are formed  
 1-33 into uniform shapes and quantities such as ingots, bars, or plates,  
 1-34 with uniform content and purity, as are suitable for or customarily  
 1-35 used in the purchase, sale, storage, transfer, and delivery of bulk  
 1-36 or wholesale transactions in precious metals.

1-37 (3) "Business day" means a day other than a Saturday,  
 1-38 Sunday, or banking holiday for a bank chartered under the laws of  
 1-39 this state.

1-40 (4) "Deposit" means the establishment of an executory  
 1-41 obligation of the depository to deliver to the order of the person  
 1-42 establishing with the depository the obligation, on demand, a  
 1-43 quantity of a specified precious metal, in bullion, specie, or a  
 1-44 combination of bullion and specie, equal to the quantity of the same  
 1-45 precious metal delivered by or on behalf of the depositor into the  
 1-46 custody of:

1-47 (A) the depository; or

1-48 (B) a depository agent.

1-49 (5) "Depositor" means a person who makes a deposit.

1-50 (6) "Depository" means the Texas Bullion Depository  
 1-51 created by this chapter.

1-52 (7) "Depository account" means the rights, interests,  
 1-53 and entitlements established in favor of a depositor with respect  
 1-54 to a deposit in accordance with this chapter and rules adopted under  
 1-55 this chapter.

1-56 (8) "Depository account holder," regarding a  
 1-57 depository account, means the original depositor or a successor or  
 1-58 assignee of the depositor respecting the depository account.

1-59 (9) "Depository agent" means a person licensed in  
 1-60 accordance with this chapter to serve as an intermediary between

2-1 the depository and a retail customer in making a transaction in  
 2-2 precious metals bullion or specie.  
 2-3 (10) "Precious metal" means a metal, including gold,  
 2-4 silver, platinum, palladium, and rhodium, that:  
 2-5 (A) bears a high value-to-weight ratio relative  
 2-6 to common industrial metals; and  
 2-7 (B) customarily is formed into bullion or specie.  
 2-8 (11) "Specie" means a precious metal stamped into  
 2-9 coins of uniform shape, size, design, content, and purity, suitable  
 2-10 for or customarily used as currency, as a medium of exchange, or as  
 2-11 the medium for purchase, sale, storage, transfer, or delivery of  
 2-12 precious metals in retail or wholesale transactions.  
 2-13 Sec. 2116.002. TEXAS BULLION DEPOSITORY. (a) The Texas  
 2-14 Bullion Depository is established as an agency of this state in the  
 2-15 office of the comptroller.  
 2-16 (b) The depository is established to serve as the custodian,  
 2-17 guardian, and administrator of certain bullion and specie that may  
 2-18 be transferred to or otherwise acquired by this state or an agency,  
 2-19 a political subdivision, or another instrumentality of this state.  
 2-20 Sec. 2116.003. DEPOSITORY ADMINISTRATION; ADMINISTRATOR.  
 2-21 (a) The depository is administered as a division of the office of  
 2-22 the comptroller and under the direction and supervision of a  
 2-23 bullion depository administrator appointed by the comptroller with  
 2-24 the advice and consent of the governor, lieutenant governor, and  
 2-25 senate.  
 2-26 (b) The administrator shall:  
 2-27 (1) administer, supervise, and direct the operations  
 2-28 and affairs of the depository and depository agents; and  
 2-29 (2) liaise with the comptroller and other divisions of  
 2-30 the office of the comptroller to ensure that each transaction with  
 2-31 the depository that involves state money, that involves an agency,  
 2-32 a political subdivision, or another instrumentality of this state,  
 2-33 or that involves a private person is planned, administered, and  
 2-34 executed in a manner to achieve the purposes of this chapter.  
 2-35 (c) The administrator may appoint, subject to the approval  
 2-36 of the comptroller, a deputy administrator or other subordinate  
 2-37 officer as necessary and appropriate to the efficient  
 2-38 administration of the depository.  
 2-39 Sec. 2116.004. DEPOSITS AND RELATED ASSETS NOT SUBJECT TO  
 2-40 LEGISLATIVE APPROPRIATION; STATUS OF DEPOSITS AND ALLOCATION OF  
 2-41 REVENUES. (a) The following are not available for legislative  
 2-42 appropriation:  
 2-43 (1) a deposit to the depository;  
 2-44 (2) bullion or specie held by or on behalf of the  
 2-45 depository or a depository agent;  
 2-46 (3) bullion or specie in transit to or from the  
 2-47 depository or a depository agent; and  
 2-48 (4) a receivable or other amount owed to the  
 2-49 depository in settlement of a transaction in bullion or specie.  
 2-50 (b) Bullion, specie, and other assets described by  
 2-51 Subsection (a) are subject to redemption, liquidation, or transfer  
 2-52 exclusively to discharge an obligation of the depository to  
 2-53 depository account holders, depository agents, bullion banks,  
 2-54 financial institutions, or other intermediaries in accordance with  
 2-55 this chapter and rules adopted under this chapter.  
 2-56 (c) Revenue the depository realizes from fees, charges, or  
 2-57 other payments received in the course of depository operations  
 2-58 shall be deposited to the credit of the general revenue fund.  
 2-59 Sec. 2116.005. DEPOSITS AND DEPOSITORY ACCOUNTS;  
 2-60 STANDARDS. (a) The depository may receive a deposit of bullion or  
 2-61 specie from or on behalf of a person acting in the person's own  
 2-62 right, as trustee, or in another fiduciary capacity, in accordance  
 2-63 with rules adopted by the comptroller as appropriate to:  
 2-64 (1) ensure compliance with law; and  
 2-65 (2) protect the interests of:  
 2-66 (A) the depository;  
 2-67 (B) depository account holders;  
 2-68 (C) this state and the agencies, political  
 2-69 subdivisions, and instrumentalities of this state; and

3-1 (D) the public at large.

3-2 (b) The depository shall record the amount of precious  
 3-3 metals a person deposits, regardless of form, in units of troy  
 3-4 ounces pure, and the records must also specify the type and quantity  
 3-5 of each precious metal deposited.

3-6 (c) The comptroller by rule shall adopt standards by which  
 3-7 the quantities of precious metals deposited are credited to a  
 3-8 depositor's depository account by reference to the particular form  
 3-9 in which the metals were deposited, classified by mint,  
 3-10 denomination, weight, assay mark, or other indicator, as  
 3-11 applicable. The standards must conform to applicable national and  
 3-12 international standards of weights and measures.

3-13 (d) The comptroller by rule may, if the comptroller  
 3-14 determines that to do so is in the public interest, restrict the  
 3-15 forms in which deposits of precious metals may be made to those  
 3-16 forms that conveniently lend themselves to measurement and  
 3-17 accounting in units of troy ounces and standardized fractions of  
 3-18 troy ounces.

3-19 (e) The depository shall adjust each depository account  
 3-20 balance to reflect additions to or withdrawals or deliveries from  
 3-21 the account.

3-22 Sec. 2116.006. DEMAND, PRESENTMENT, WITHDRAWAL, DELIVERY,  
 3-23 AND SETTLEMENT. (a) The depository shall deliver any precious  
 3-24 metal held by or on behalf of the depository in bullion, specie, or  
 3-25 a combination of bullion and specie, on the order of a depository  
 3-26 account holder in a quantity of that precious metal as is available  
 3-27 in the depository account holder's depository account.

3-28 (b) The depository shall make a delivery described by  
 3-29 Subsection (a) on demand by the presentment of a suitable check,  
 3-30 draft, or digital electronic instruction to the depository or a  
 3-31 depository agent. The comptroller by rule shall adopt the forms,  
 3-32 standards, and processes through which an order for delivery on  
 3-33 demand may be made, presented, and honored.

3-34 (c) The depository shall make a delivery at the depository's  
 3-35 settlement facility designated by the comptroller, shipping to an  
 3-36 address specified by the account holder or, at the depository's  
 3-37 discretion, at a facility of a depository agent at which  
 3-38 presentment is made, not later than five business days after the  
 3-39 date of presentment.

3-40 Sec. 2116.007. TRANSFER OF DEPOSITORY ACCOUNT BALANCE. (a)  
 3-41 In accordance with rules adopted under this chapter, a depository  
 3-42 account holder may transfer any portion of the balance of the  
 3-43 holder's depository account by check, draft, or digital electronic  
 3-44 instruction to another depository account holder or to a person who  
 3-45 at the time the transfer is initiated is not a depository account  
 3-46 holder.

3-47 (b) The depository shall adjust the depository account  
 3-48 balances of the depository accounts to reflect a transfer  
 3-49 transaction between depository account holders on presentment of  
 3-50 the check, draft, or other instruction by reducing the payor's  
 3-51 depository account balance and increasing the depository account  
 3-52 balance of the payee accordingly.

3-53 (c) If a depository account holder transfers to a payee who  
 3-54 is not a depository account holder any portion of the balance of the  
 3-55 holder's depository account, the depository shall allow the payee  
 3-56 to establish a depository account by presentment of the payor's  
 3-57 check, draft, or instruction to the depository or to a depository  
 3-58 agent. The depository shall credit a newly established account on  
 3-59 behalf of the payee and shall debit the payor's account  
 3-60 accordingly.

3-61 Sec. 2116.008. DEPOSITORY ACCOUNT CONTRACTS. (a) To  
 3-62 establish a depository account, a depositor must contract with the  
 3-63 depository for a depository account. The contract must specify:

3-64 (1) the terms applicable to the account, including any  
 3-65 special terms; and

3-66 (2) the conditions on which withdrawals or deliveries  
 3-67 with respect to the account may be made.

3-68 (b) The execution of a contract for a depository account  
 3-69 described by this section may be made, as prescribed by rules

4-1 adopted under this chapter, by electronic or digital transmission.

4-2 (c) The depository or a depository agent shall hold the  
4-3 contract for a depository account in the records pertaining to the  
4-4 account.

4-5 (d) A contract for a depository account executed by a  
4-6 depositor and the depository is considered a contract in writing  
4-7 for all purposes, and may be evidenced by one or more agreements,  
4-8 deposit receipts, signature cards, amendment notices, or other  
4-9 documentation as provided by law.

4-10 (e) The depository and the depository account holder may  
4-11 amend a contract for a depository account by agreement, or the  
4-12 depository may amend the deposit contract by mailing a written  
4-13 notice of the amendment to the account holder, separately or as an  
4-14 enclosure with or part of the account holder's statement of account  
4-15 or passbook. In the case of amendment by notice from the  
4-16 depository, the notice must include the text and effective date of  
4-17 the amendment. The effective date may not be earlier than the 30th  
4-18 day after the date the notice is mailed, unless otherwise provided  
4-19 by rules adopted under this chapter.

4-20 Sec. 2116.009. CAUSE OF ACTION FOR DENIAL OF DEPOSIT  
4-21 LIABILITY. (a) A cause of action for denial of deposit liability  
4-22 on a depository account contract without a maturity date does not  
4-23 accrue until the depository has denied liability and given notice  
4-24 of the denial to the depository account holder.

4-25 (b) The depository's act of furnishing an account statement  
4-26 or passbook, whether in physical, digital, or electronic form,  
4-27 constitutes a denial of liability and the giving of such notice as  
4-28 to any amount not shown on the statement or passbook.

4-29 (c) The depository's sovereign immunity from suit is waived  
4-30 for an action brought by a depositor for the denial of deposit  
4-31 liability.

4-32 (d) The depository's liability for a denial of deposit  
4-33 liability is limited to the amount on deposit for which liability  
4-34 was denied. A depositor may not recover consequential damages,  
4-35 exemplary damages, pre- or post-judgment interest, costs, or  
4-36 attorney's fees.

4-37 (e) A suit authorized by this section must be brought in a  
4-38 district court of Travis County.

4-39 (f) A suit authorized by this section must be brought before  
4-40 the expiration of one year after the date the cause of action  
4-41 accrues or the suit is barred.

4-42 Sec. 2116.010. FEES; SERVICE CHARGES; PENALTIES. The  
4-43 comptroller by rule may establish fees, service charges, and  
4-44 penalties to be charged a depository account holder for a service or  
4-45 activity regarding a depository account, including a fee for an  
4-46 overdraft, an insufficient fund check or draft, or a stop payment  
4-47 order.

4-48 Sec. 2116.011. DEPOSITORY ACCOUNT OWNERSHIP BY OWNER OF  
4-49 RECORD. Unless the depository acknowledges in writing a pledge of a  
4-50 depository account, the depository may treat the holder of record  
4-51 of the account as the owner of the account for all purposes and  
4-52 without regard to a notice to the contrary.

4-53 Sec. 2116.012. TRANSFER OF DEPOSITORY ACCOUNT. (a) A  
4-54 depository account may be transferred on the books of the  
4-55 depository only on presentation to the depository of:

4-56 (1) evidence of transfer satisfactory to the  
4-57 depository; and

4-58 (2) an application for the transfer submitted by the  
4-59 person to whom the depository account is to be transferred.

4-60 (b) A person to whom a depository account is to be  
4-61 transferred must accept the transferred account subject to the  
4-62 terms of the deposit contract, this chapter, and rules adopted  
4-63 under this chapter.

4-64 Sec. 2116.013. DEPOSITORY ACCOUNTS NOT INTEREST-BEARING.  
4-65 The depository may not pay on a depository account:

4-66 (1) interest;

4-67 (2) an amount in the nature of interest; or

4-68 (3) a fee or other payment for the use or forbearance  
4-69 of use of money, bullion, specie, or precious metals deposited to a

5-1 depository account.

5-2 Sec. 2116.014. LIEN ON DEPOSITORY ACCOUNT. (a) Without the  
 5-3 need of any further agreement or pledge, the depository has a lien  
 5-4 on each depository account owned by a depository account holder to  
 5-5 secure any fees, charges, or other obligations owed or that may  
 5-6 become owed to the depository in connection with any of the  
 5-7 depository account holder's depository accounts as provided by the  
 5-8 terms of the depository account holder's applicable depository  
 5-9 account contract.

5-10 (b) On default in the payment or in the satisfaction of a  
 5-11 depository account holder's obligation, the depository, without  
 5-12 notice to or consent of the depository account holder, may transfer  
 5-13 on the depository's books all or part of the balance of a depository  
 5-14 account holder's depository account to the extent necessary to pay  
 5-15 or satisfy the obligation, as determined by reference to the  
 5-16 exchange rates applicable at the time of the transfer.

5-17 (c) The depository by written instrument may waive wholly or  
 5-18 partly the depository's lien on a depository account.

5-19 (d) Subject to a lien created as provided by this section,  
 5-20 the depository shall recognize the lawful pledge to a third party by  
 5-21 a depository account holder of the depository account holder's  
 5-22 rights, interests, and entitlements in and to a depository account  
 5-23 as an intangible asset. On the satisfaction of other requirements  
 5-24 of law in respect of the perfection and enforcement of a pledge of  
 5-25 that type, the depository shall take all steps reasonably necessary  
 5-26 and appropriate to effectuate on the depository's books any  
 5-27 transfer of a depository account or of all or part of a depository  
 5-28 account balance to the account of the secured party on the  
 5-29 successful enforcement of the pledge.

5-30 Sec. 2116.015. DEPOSITORY ACCOUNT AS LEGAL INVESTMENT. (a)  
 5-31 The following persons may invest the person's money in a depository  
 5-32 account by purchasing precious metals and depositing the precious  
 5-33 metals with the depository or a depository agent:

5-34 (1) a fiduciary, including an administrator,  
 5-35 executor, custodian, guardian, or trustee;

5-36 (2) a political subdivision of this state or an  
 5-37 instrumentality of this state;

5-38 (3) a business or nonprofit corporation;

5-39 (4) a charitable or educational corporation or  
 5-40 association; or

5-41 (5) a financial institution, including a bank, savings  
 5-42 and loan association, or credit union.

5-43 (b) An investment by an insurance company in a depository  
 5-44 account is eligible to be applied as a credit against taxes payable  
 5-45 under Chapters 221 and 222, Insurance Code, in accordance with  
 5-46 rules adopted by the comptroller after consultation with the  
 5-47 commissioner of insurance.

5-48 (c) An investment by a school district in a depository  
 5-49 account may be made instead of an investment as provided by Section  
 5-50 45.102, Education Code, and the depository may be used by a district  
 5-51 instead of a depository bank for the purposes of Subchapter G,  
 5-52 Chapter 45, Education Code.

5-53 Sec. 2116.016. APPLICABILITY OF ESTATES CODE. The  
 5-54 applicable provisions of Chapters 111, 112, and 113, Estates Code,  
 5-55 govern a depository account.

5-56 Sec. 2116.017. PLEDGE OF JOINTLY HELD DEPOSITORY ACCOUNT.

5-57 (a) Unless a term of the depository account provides otherwise, a  
 5-58 person on whose signature precious metals may be withdrawn from a  
 5-59 depository account that is jointly held in the names of two or more  
 5-60 persons may, by a signed pledge, pledge and transfer to the  
 5-61 depository or to a third party all or part of the account.

5-62 (b) A pledge made as described by Subsection (a) does not  
 5-63 sever or terminate the joint and survivorship ownership of the  
 5-64 account, to the extent applicable to the account before the pledge.

5-65 Sec. 2116.018. DEPOSITORY ACCOUNT HELD BY FIDUCIARY. (a)

5-66 The depository or a depository agent may accept a depository  
 5-67 account in the name of a fiduciary, including an administrator,  
 5-68 executor, custodian, guardian, or trustee, for a named beneficiary.

5-69 (b) A fiduciary may open, add to, or withdraw precious

6-1 metals from an account described by Subsection (a).

6-2 (c) Except as otherwise provided by law, a payment or  
 6-3 delivery to a fiduciary or an acquittance signed by the fiduciary to  
 6-4 whom a payment or delivery is made is a discharge of the depository  
 6-5 for the payment or delivery.

6-6 (d) After a person who holds a depository account in a  
 6-7 fiduciary capacity dies, the depository may pay or deliver to the  
 6-8 beneficiary of the account the quantity of precious metals  
 6-9 represented by the balance in the depository account, plus other  
 6-10 rights relating to the depository account, wholly or partly, if the  
 6-11 depository has no written notice or order of the probate court of:

6-12 (1) a revocation or termination of the fiduciary  
 6-13 relationship; or

6-14 (2) any other disposition of the beneficial estate.

6-15 (e) The depository has no further liability for a payment  
 6-16 made or right delivered under Subsection (d).

6-17 Sec. 2116.019. DEPOSITORY ACCOUNT HELD IN TRUST;  
 6-18 UNDISCLOSED TRUST INSTRUMENT. (a) If the depository opens a  
 6-19 depository account for a person claiming to be the trustee for  
 6-20 another person and the depository has no other notice of the  
 6-21 existence or terms of the trust other than a written claim against  
 6-22 the account:

6-23 (1) the person claiming to be the trustee, on the  
 6-24 person's signature, may withdraw precious metals from the account;  
 6-25 and

6-26 (2) if the person claiming to be the trustee dies, the  
 6-27 depository may pay or deliver the quantity of precious metals  
 6-28 represented by the balance in the account to the person for whom the  
 6-29 account was opened.

6-30 (b) The depository has no further liability for a payment or  
 6-31 delivery made as provided by Subsection (a).

6-32 Sec. 2116.020. POWER OF ATTORNEY; REVOCATION ON DEATH OR  
 6-33 INCOMPETENCY. (a) The depository shall recognize the authority of  
 6-34 an attorney-in-fact authorized in writing by a depository account  
 6-35 holder to manage or withdraw precious metals from the depository  
 6-36 account holder's depository account until the depository receives  
 6-37 written or actual notice of the revocation of that authority.

6-38 (b) For purposes of this section, written notice of the  
 6-39 death or adjudication of incompetency of a depository account  
 6-40 holder is considered to be written notice of revocation of the  
 6-41 authority of the account holder's attorney-in-fact.

6-42 Sec. 2116.021. TRANSACTIONS AND RELATIONSHIPS. The  
 6-43 depository shall enter into transactions and relationships with  
 6-44 bullion banks, depositories, dealers, central banks, sovereign  
 6-45 wealth funds, financial institutions, international  
 6-46 nongovernmental organizations, and other persons, located inside  
 6-47 or outside of this state or inside or outside of the United States,  
 6-48 as the comptroller determines to be prudent and suitable to  
 6-49 facilitate the operations of the depository and to further the  
 6-50 purposes of this chapter.

6-51 Sec. 2116.022. CERTAIN ACTIONS PROHIBITED. The depository  
 6-52 may not take any of the following actions, and any attempt by the  
 6-53 depository to take any of the following actions is void ab initio  
 6-54 and of no force or effect:

6-55 (1) entering into a precious metals leasing,  
 6-56 sale-leaseback, forward transaction, swap transaction, future  
 6-57 transaction, index transaction, or option on or other derivative of  
 6-58 any of those, whether in the nature of a cap transaction, floor  
 6-59 transaction, collar transaction, repurchase transaction, reverse  
 6-60 repurchase transaction, buy-and-sell-back transaction, securities  
 6-61 lending transaction, or other financial instrument or interest  
 6-62 intended to or having the effect of hedging or leveraging the  
 6-63 depository's holdings of precious metals, including any option  
 6-64 with respect to any of these transactions, or any combination of  
 6-65 these transactions, except that the limitation provided by this  
 6-66 subdivision does not apply to a transaction entered into to limit  
 6-67 the depository's exposure to post-signature price risks associated  
 6-68 with executory agreements to purchase or sell precious metals in  
 6-69 the ordinary course of depository operations and does not apply to

7-1 policies of insurance purchased to insure against ordinary casualty  
7-2 risks such as theft, damage or destruction, loss during shipment,  
7-3 or similar risks;  
7-4 (2) crediting the depository account balances of a  
7-5 depository account holder, or disposing of any precious metals, if  
7-6 to do so would cause the aggregate depository account balances with  
7-7 respect to any precious metal represented by all depository  
7-8 accounts to exceed the aggregate quantities of such precious metal  
7-9 held by or for the benefit of the depository and the depository's  
7-10 depository agents;  
7-11 (3) entering into or maintaining a deposit, trust, or  
7-12 similar relationship for the custody of precious metals by a third  
7-13 party outside this state, directly or indirectly, for the account  
7-14 or benefit of the depository if the comptroller by rule establishes  
7-15 that:  
7-16 (A) the custody or intermediary arrangements in  
7-17 question do not meet the comptroller's standards of safety,  
7-18 security, and liquidity; or  
7-19 (B) except in those cases where such relationship  
7-20 may be incidental to the performance of or preparation for purchase  
7-21 and sale transactions with counterparties located outside of this  
7-22 state, suitable alternate arrangements for physical custody of the  
7-23 precious metals inside this state have been established and are  
7-24 available;  
7-25 (4) extending credit to a person, including credit  
7-26 secured by a depository account or other assets, except an  
7-27 extension of credit incidental to the performance of the functions  
7-28 and responsibilities otherwise provided by this chapter; or  
7-29 (5) engaging in a business or activity that, if  
7-30 conducted by a private person, would be subject to regulation in  
7-31 this state as a banking or savings and loan function.  
7-32 Sec. 2116.023. CONFISCATIONS, REQUISITIONS, SEIZURES, AND  
7-33 OTHER ACTIONS VOID. (a) A purported confiscation, requisition,  
7-34 seizure, or other attempt to control the ownership, disposition, or  
7-35 proceeds of a withdrawal, transfer, liquidation, or settlement of a  
7-36 depository account, including the precious metals represented by  
7-37 the balance of a depository account, if effected by a governmental  
7-38 or quasi-governmental authority other than an authority of this  
7-39 state or by a financial institution or other person acting on behalf  
7-40 of or pursuant to a directive or authorization issued by a  
7-41 governmental or quasi-governmental authority other than an  
7-42 authority of this state, in the course of a generalized declaration  
7-43 of illegality or emergency relating to the ownership, possession,  
7-44 or disposition of one or more precious metals, contracts, or other  
7-45 rights to the precious metals or contracts or derivatives of the  
7-46 ownership, possession, disposition, contracts, or other rights, is  
7-47 void ab initio and of no force or effect.  
7-48 (b) The depository in the case of receiving notice of a  
7-49 purported confiscation, requisition, seizure, or other attempt to  
7-50 control the ownership, disposition, or proceeds of a withdrawal,  
7-51 transfer, liquidation, or settlement of a depository account,  
7-52 including the precious metals represented by the balance of a  
7-53 depository account, effected by a governmental or  
7-54 quasi-governmental authority other than an authority of this state  
7-55 or by a financial institution or other person acting on behalf of or  
7-56 pursuant to a directive or authorization issued by a governmental  
7-57 or quasi-governmental authority other than an authority of this  
7-58 state, in the course of a generalized declaration of illegality or  
7-59 emergency relating to the ownership, possession, or disposition of  
7-60 one or more precious metals, contracts, or other rights to the  
7-61 precious metals or contracts or derivatives of the ownership,  
7-62 possession, disposition, contracts, or other rights, may not  
7-63 recognize the governmental or quasi-governmental authority,  
7-64 financial institution, or other person acting as the lawful  
7-65 successor of the registered holder of a depository account in  
7-66 question.  
7-67 (c) On receipt of notice of any transaction described by  
7-68 Subsection (a), with respect to all or any portion of the balance of  
7-69 a depository account, the depository shall suspend withdrawal

8-1 privileges associated with the balances of the depository account  
 8-2 until suitable substitute arrangements may be effected in  
 8-3 accordance with rules of the comptroller to enable the registered  
 8-4 account holder to take delivery of the precious metals represented  
 8-5 by the account balances in question. A voluntary transfer of a  
 8-6 depository account balance or of a depository account among  
 8-7 depository account holders may continue to take place unaffected by  
 8-8 the suspension, and the depository shall recognize to the full  
 8-9 extent authorized by this chapter and rules adopted under this  
 8-10 chapter.

8-11 Sec. 2116.024. OFFICIAL EXCHANGE RATES. The comptroller by  
 8-12 rule shall establish the references by which the official exchange  
 8-13 rate for pricing precious metals transactions in terms of United  
 8-14 States dollars or other currency must be established at the time of  
 8-15 a depository transaction. The comptroller shall establish  
 8-16 procedures and facilities through which the rates are made  
 8-17 discoverable at all reasonable times by system participants, both  
 8-18 on a real-time basis and retrospectively.

8-19 Sec. 2116.025. FACILITATION OF ACCOUNTING AND REPORTING OF  
 8-20 TAXABLE GAINS. The comptroller by rule shall establish procedures  
 8-21 and requirements for the depository and depository agents designed  
 8-22 to minimize the burden to system participants of accounting for and  
 8-23 reporting taxable gains and losses arising out of depository  
 8-24 transactions as denominated in United States dollars or another  
 8-25 currency.

8-26 Sec. 2116.026. ANNUAL REPORT. The comptroller shall submit  
 8-27 to the governor and the legislature a report on the status,  
 8-28 condition, operations, and prospects for the depository and  
 8-29 depository participation each year not later than September 30.

#### 8-30 SUBCHAPTER B. DEPOSITORY AGENTS

8-31 Sec. 2116.051. USE OF DEPOSITORY AGENTS. The depository  
 8-32 shall use private, independently managed firms and institutions  
 8-33 licensed as depository agents as intermediaries to conduct retail  
 8-34 transactions in bullion and specie on behalf of the depository with  
 8-35 current and prospective depository account holders.

8-36 Sec. 2116.052. ELECTRONIC INFORMATION SHARING SYSTEMS AND  
 8-37 PROCESSES. The comptroller by rule shall require a depository  
 8-38 agent to maintain suitable systems and processes for electronic  
 8-39 information sharing and communication with the comptroller and the  
 8-40 depository to ensure that all transactions effected on behalf of  
 8-41 the depository are reported to and integrated into the depository's  
 8-42 records not later than 11:59:59 p.m. on the date of each  
 8-43 transaction.

8-44 Sec. 2116.053. PERIODIC REPORTS. A depository agent shall  
 8-45 submit monthly, quarterly, and annual reports of all depository  
 8-46 transactions not later than the 15th day of the month following the  
 8-47 expiration of the period with respect to which such report is  
 8-48 submitted. The report must contain information and be in a form and  
 8-49 format as rules of the comptroller require.

8-50 SECTION 2. Section 151.002(a), Finance Code, is amended to  
 8-51 read as follows:

8-52 (a) This section defines general terms that apply to an  
 8-53 applicant for or holder of a money services license issued under  
 8-54 this chapter, regardless of whether the license is a money  
 8-55 transmission license, ~~or~~ a currency exchange license, or a  
 8-56 depository agent license. Additional terms that apply specifically  
 8-57 to money transmission are defined in Section 151.301. Additional  
 8-58 terms that apply specifically to currency exchange are defined in  
 8-59 Section 151.501. Additional terms that apply specifically to  
 8-60 depository agents are defined in Section 151.851.

8-61 SECTION 3. Section 151.002(b), Finance Code, is amended by  
 8-62 adding Subdivisions (9-a), (9-b), and (9-c) and amending  
 8-63 Subdivisions (11) and (14) to read as follows:

8-64 (9-a) "Depository agent" has the meaning assigned by  
 8-65 Section 151.851.

8-66 (9-b) "Depository agent license" means a license  
 8-67 issued under Subchapter J.

8-68 (9-c) "Depository agent services" means services  
 8-69 rendered to the general public for or on behalf of the Texas Bullion

9-1 Depository in the nature of purchasing, selling, transferring,  
 9-2 accepting, transporting, delivering, or otherwise dealing in  
 9-3 precious metals bullion or specie in connection with the creation,  
 9-4 transfer, clearing, settlement, or liquidation of the rights and  
 9-5 interests of a depository account holder and a direct or indirect  
 9-6 transferee of a depository account holder, as those terms are  
 9-7 defined by Subchapter J. The term "depository agent services" does  
 9-8 not include:

9-9 (A) participation as a party or counterparty to a  
 9-10 transaction, including an agreement with respect to a transaction,  
 9-11 in or in connection with a contract for the purchase or sale of a  
 9-12 person's rights and interests as a depository account holder, as a  
 9-13 cash contract for present delivery, a cash contract for deferred  
 9-14 shipment or delivery, or a contract for future delivery, where the  
 9-15 underlying deliverable consists of the depository account holder's  
 9-16 interest in the depository account, rather than the underlying  
 9-17 precious metal represented by the depository account balance;

9-18 (B) the opening, transfer, settlement, or  
 9-19 liquidation of any derivative of a contract described by Paragraph  
 9-20 (A), including a forward transaction, swap transaction, currency  
 9-21 transaction, future transaction, index transaction, or option on or  
 9-22 other derivative of a transaction of any of those types, in the  
 9-23 nature of a cap transaction, floor transaction, collar transaction,  
 9-24 repurchase transaction, reverse repurchase transaction,  
 9-25 buy-and-sell-back transaction, securities lending transaction, or  
 9-26 other financial instrument or interest, including an option with  
 9-27 respect to a transaction, or any combination of these transactions;  
 9-28 or

9-29 (C) the rendition of services exclusively in  
 9-30 support of the opening, transfer, settlement, or liquidation of  
 9-31 transaction derivatives described by Paragraph (B) through a  
 9-32 central counterparty, such as those customarily rendered by a  
 9-33 clearinghouse, clearing association, or clearing corporation, or  
 9-34 through an interbank payment system, physical or electronic trading  
 9-35 facility, broker or brokerage firm, or similar entity, facility,  
 9-36 system, or organization.

9-37 (11) "License holder" means a person that holds a  
 9-38 money transmission license, ~~or~~ a currency exchange license, or a  
 9-39 depository agent license.

9-40 (14) "Money services" means money transmission, ~~or~~  
 9-41 currency exchange, or depository agent services.

9-42 SECTION 4. Section 151.003, Finance Code, is amended to  
 9-43 read as follows:

9-44 Sec. 151.003. EXCLUSIONS. Subject to Subchapter J, the  
 9-45 [The] following persons are not required to be licensed under this  
 9-46 chapter:

9-47 (1) the United States or an instrumentality of the  
 9-48 United States, including the United States Post Office or a  
 9-49 contractor acting on behalf of the United States Post Office;

9-50 (2) a state or an agency, political subdivision, or  
 9-51 other instrumentality of a state;

9-52 (3) a federally insured financial institution, as that  
 9-53 term is defined by Section 201.101, that is organized under the laws  
 9-54 of this state, another state, or the United States;

9-55 (4) a foreign bank branch or agency in the United  
 9-56 States established under the federal International Banking Act of  
 9-57 1978 (12 U.S.C. Section 3101 et seq.);

9-58 (5) a person acting as an agent for an entity excluded  
 9-59 under Subdivision (3) or (4), to the extent of the person's actions  
 9-60 in that capacity, provided that:

9-61 (A) the entity is liable for satisfying the money  
 9-62 services obligation owed to the purchaser on the person's receipt  
 9-63 of the purchaser's money; and

9-64 (B) the entity and person enter into a written  
 9-65 contract that appoints the person as the entity's agent and the  
 9-66 person acts only within the scope of authority conferred by the  
 9-67 contract;

9-68 (6) a person that, on behalf of the United States or a  
 9-69 department, agency, or instrumentality of the United States, or a

10-1 state or county, city, or any other governmental agency or  
 10-2 political subdivision of a state, provides electronic funds  
 10-3 transfer services of governmental benefits for a federal, state,  
 10-4 county, or local governmental agency;

10-5 (7) a person that acts as an intermediary on behalf of  
 10-6 and at the direction of a license holder in the process by which the  
 10-7 license holder, after receiving money or monetary value from a  
 10-8 purchaser, either directly or through an authorized delegate,  
 10-9 transmits the money or monetary value to the purchaser's designated  
 10-10 recipient, provided that the license holder is liable for  
 10-11 satisfying the obligation owed to the purchaser;

10-12 (8) an attorney or title company that in connection  
 10-13 with a real property transaction receives and disburses domestic  
 10-14 currency or issues an escrow or trust fund check only on behalf of a  
 10-15 party to the transaction;

10-16 (9) a person engaged in the business of currency  
 10-17 transportation who is both a registered motor carrier under Chapter  
 10-18 643, Transportation Code, and a licensed armored car company or  
 10-19 courier company under Chapter 1702, Occupations Code, provided that  
 10-20 the person does not engage in the money transmission or currency  
 10-21 exchange business or depository agent services business without a  
 10-22 license issued under this chapter; and

10-23 (10) any other person, transaction, or class of  
 10-24 persons or transactions exempted by commission rule or any other  
 10-25 person or transaction exempted by the commissioner's order on a  
 10-26 finding that the licensing of the person is not necessary to achieve  
 10-27 the purposes of this chapter.

10-28 SECTION 5. Section 151.201, Finance Code, is amended to  
 10-29 read as follows:

10-30 Sec. 151.201. SCOPE. This subchapter sets out the general  
 10-31 qualifications and provisions that apply to a money services  
 10-32 license, regardless of whether the license is a money transmission  
 10-33 license, ~~or~~ a currency exchange license, or a depository agent  
 10-34 license. Subchapters D and E set forth the additional  
 10-35 qualifications and provisions that apply specifically to a money  
 10-36 transmission license. Subchapter F sets forth the additional  
 10-37 qualifications and provisions that apply specifically to a currency  
 10-38 exchange license. Subchapter J sets forth the additional  
 10-39 qualifications and provisions that apply specifically to a  
 10-40 depository agent license.

10-41 SECTION 6. Sections 151.207(a), (b), and (d), Finance Code,  
 10-42 are amended to read as follows:

10-43 (a) If a license holder does not continue to meet the  
 10-44 qualifications or satisfy the requirements that apply to an  
 10-45 applicant for a new money transmission license, ~~or~~ currency  
 10-46 exchange license, or depository agent license, as applicable, the  
 10-47 commissioner may suspend or revoke the license holder's license.

10-48 (b) In addition to complying with Subsection (a), a license  
 10-49 holder must annually:

10-50 (1) pay a license fee in an amount established by  
 10-51 commission rule; and

10-52 (2) submit a report that is under oath, is in the form  
 10-53 and medium required by the commissioner, and contains:

10-54 (A) if the license is a money transmission  
 10-55 license or depository agent license, an audited unconsolidated  
 10-56 financial statement dated as of the last day of the license holder's  
 10-57 fiscal year that ended in the immediately preceding calendar year;

10-58 (B) if the license is a currency exchange  
 10-59 license, a financial statement, audited or unaudited, dated as of  
 10-60 the last day of the license holder's fiscal year that ended in the  
 10-61 immediately preceding calendar year; and

10-62 (C) documentation and certification, or any  
 10-63 other information the commissioner reasonably requires to  
 10-64 determine the security, net worth, permissible investments, and  
 10-65 other requirements the license holder must satisfy and whether the  
 10-66 license holder continues to meet the qualifications and  
 10-67 requirements for licensure.

10-68 (d) If the license holder fails to submit the completed  
 10-69 annual report and pay the annual license fee and any late fee due

11-1 within the time prescribed by Subsection (c)(1), the license  
 11-2 expires, and the license holder must cease and desist from engaging  
 11-3 in the business of money transmission, ~~[or]~~ currency exchange, or  
 11-4 depository agent services, as applicable, as of that date. The  
 11-5 expiration of a license is not subject to appeal.

11-6 SECTION 7. Section 151.302(a), Finance Code, is amended to  
 11-7 read as follows:

11-8 (a) A person may not engage in the business of money  
 11-9 transmission or advertise, solicit, or hold itself out as a person  
 11-10 that engages in the business of money transmission unless the  
 11-11 person:

11-12 (1) is licensed under this subchapter;

11-13 (2) is an authorized delegate of a person licensed  
 11-14 under this subchapter, appointed by the license holder in  
 11-15 accordance with Section 151.402;

11-16 (3) is excluded from licensure under Section 151.003;  
 11-17 ~~[or]~~

11-18 (4) is licensed as a depository agent under Subchapter  
 11-19 J and only engages in the business of money transmission in  
 11-20 connection with, and to the extent necessary for, the performance  
 11-21 of depository agent activities; or

11-22 (5) has been granted an exemption under Subsection  
 11-23 (c).

11-24 SECTION 8. Section 151.502(a), Finance Code, is amended to  
 11-25 read as follows:

11-26 Sec. 151.502. LICENSE REQUIRED. (a) A person may not engage  
 11-27 in the business of currency exchange or advertise, solicit, or hold  
 11-28 itself out as providing currency exchange unless the person:

11-29 (1) is licensed under this subchapter;

11-30 (2) is licensed for money transmission under  
 11-31 Subchapter D;

11-32 (3) is an authorized delegate of a person licensed for  
 11-33 money transmission under Subchapter D;

11-34 (4) is excluded under Section 151.003; ~~[or]~~

11-35 (5) is licensed as a depository agent under Subchapter  
 11-36 J and only engages in the business of currency exchange in  
 11-37 connection with, and to the extent necessary for, the performance  
 11-38 of depository agent activities; or

11-39 (6) has been granted an exemption under Subsection  
 11-40 (d).

11-41 SECTION 9. Section 151.602(a), Finance Code, is amended to  
 11-42 read as follows:

11-43 (a) A license holder must prepare, maintain, and preserve  
 11-44 the following books, accounts, and other records for at least five  
 11-45 years or another period as may be prescribed by rule of the  
 11-46 commission:

11-47 (1) a record of each money transmission transaction,  
 11-48 ~~[or]~~ currency exchange transaction, or depository agent services  
 11-49 transaction, as applicable;

11-50 (2) a general ledger posted in accordance with  
 11-51 generally accepted accounting principles containing all asset,  
 11-52 liability, capital, income, and expense accounts, unless directed  
 11-53 otherwise by the commissioner;

11-54 (3) bank statements and bank reconciliation records;

11-55 (4) all records and reports required by applicable  
 11-56 state and federal law, including the reporting and recordkeeping  
 11-57 requirements imposed by the Bank Secrecy Act, the USA PATRIOT ACT,  
 11-58 and Chapter 271, and other federal and state laws pertaining to  
 11-59 money laundering, drug trafficking, or terrorist funding; and

11-60 (5) any other records required by commission rule or  
 11-61 reasonably requested by the commissioner to determine compliance  
 11-62 with this chapter.

11-63 SECTION 10. Section 151.603, Finance Code, is amended by  
 11-64 adding Subsection (c-1) to read as follows:

11-65 (c-1) A depository agent license holder shall prepare  
 11-66 written reports and statements as follows:

11-67 (1) the renewal report required by Section  
 11-68 151.207(b)(2), including an audited unconsolidated financial  
 11-69 statement that is dated as of the last day of the license holder's

12-1 fiscal year that ended in the immediately preceding calendar year;  
 12-2 (2) a quarterly interim financial statement and report  
 12-3 regarding the permissible investments required to be maintained  
 12-4 under applicable rules that reflect the license holder's financial  
 12-5 condition and permissible investments as of the last day of the  
 12-6 calendar quarter to which the statement and report relate and that  
 12-7 are prepared not later than the 45th day after the last day of the  
 12-8 calendar quarter; and

12-9 (3) any other report required by commission rule or  
 12-10 reasonably requested by the commissioner to determine compliance  
 12-11 with this chapter.

12-12 SECTION 11. Section 151.604(b), Finance Code, is amended to  
 12-13 read as follows:

12-14 (b) A license holder must file a written report with the  
 12-15 commissioner not later than 24 hours after the license holder knows  
 12-16 or has reason to know of:

12-17 (1) the filing of a petition by or against the license  
 12-18 holder for bankruptcy or reorganization;

12-19 (2) the filing of a petition by or against the license  
 12-20 holder for receivership, the commencement of any other judicial or  
 12-21 administrative proceeding for its dissolution or reorganization,  
 12-22 or the making of a general assignment for the benefit of the license  
 12-23 holder's creditors;

12-24 (3) the institution of a proceeding to revoke or  
 12-25 suspend the license holder's license, or to enjoin or otherwise  
 12-26 require the license holder to cease and desist from engaging in an  
 12-27 activity related to a business activity that, if conducted in this  
 12-28 state, would be subject to this chapter [~~money transmission~~], by a  
 12-29 state or country in which the license holder engages in business or  
 12-30 is licensed;

12-31 (4) the felony indictment or conviction of the license  
 12-32 holder or a principal of, person in control of, responsible  
 12-33 individual of, or authorized delegate of the license holder for an  
 12-34 offense identified in Section 151.202(e);

12-35 (5) the cancellation or other impairment of the  
 12-36 license holder's security; or

12-37 (6) the inability to meet the license holder's  
 12-38 transmission obligations under this chapter for a period of 24  
 12-39 hours or longer.

12-40 SECTION 12. Chapter 151, Finance Code, is amended by adding  
 12-41 Subchapter J to read as follows:

12-42 SUBCHAPTER J. DEPOSITORY AGENT LICENSE

12-43 Sec. 151.851. DEFINITIONS. In this subchapter, "bullion,"  
 12-44 "deposit," "depository," "depository account," "depository account  
 12-45 holder," "depository agent," "precious metal," and "specie" have  
 12-46 the meanings assigned by Section 2116.001, Government Code.

12-47 Sec. 151.852. APPLICABILITY TO DEPOSITORY AGENT SERVICES.

12-48 (a) Notwithstanding any other provision of this chapter, a money  
 12-49 service that constitutes both a depository agent service and a  
 12-50 money transmission service, or both a depository agent service and  
 12-51 a currency exchange service, for purposes of this chapter  
 12-52 constitutes a depository agent service only.

12-53 (b) A depository agent service described by Subsection (a)  
 12-54 is not subject to a provision of this chapter applicable uniquely to  
 12-55 money transmission services or currency exchange services.

12-56 (c) A person who renders a service that constitutes a  
 12-57 depository agent service, including a depository agent service  
 12-58 described by Subsection (a), and renders another service that  
 12-59 constitutes money transmission or currency exchange service only,  
 12-60 is subject to the requirements of this chapter applicable to each  
 12-61 type of service rendered.

12-62 Sec. 151.853. LICENSE REQUIRED. (a) A person may not  
 12-63 engage in the business of rendering depository agent services or  
 12-64 advertise, solicit, or hold itself out as a person that engages in  
 12-65 the business of depository agent services unless the person:

12-66 (1) is licensed under this subchapter and has received  
 12-67 the requisite certifications from the comptroller of its  
 12-68 facilities, systems, processes, and procedures as required by  
 12-69 Chapter 2116, Government Code, or rules adopted under that chapter;

13-1 or  
 13-2 (2) is excluded from licensing requirements under  
 13-3 Section 151.003.

13-4 (b) Notwithstanding any other provision of this chapter, a  
 13-5 person described by Section 151.003(1), (6), (7), (8), or (9) is not  
 13-6 eligible for a license under this subchapter and may not engage in  
 13-7 depository agent activities.

13-8 (c) For purposes of this chapter:

13-9 (1) a person engages in the business of depository  
 13-10 agent services if the person renders a depository agent service,  
 13-11 regardless of whether:

13-12 (A) compensation is sought or received for the  
 13-13 service, directly or indirectly; and

13-14 (B) the service is incidental to any other  
 13-15 business in which the person is primarily engaged; and

13-16 (2) a person solicits, advertises, or holds the person  
 13-17 out as a person that engages in the business of depository agent  
 13-18 services if the person represents that the person will conduct  
 13-19 depository agent services.

13-20 (d) Notwithstanding Subsection (c), a person does not  
 13-21 engage in the business of depository agent services by engaging in a  
 13-22 transaction for the person's own depository account or for the  
 13-23 account of another person acting as a fiduciary that would  
 13-24 constitute depository agent services if conducted for another  
 13-25 person.

13-26 (e) A depository agent license holder may engage in  
 13-27 depository agent services business at one or more locations in this  
 13-28 state owned directly or indirectly by the license holder under a  
 13-29 single license.

13-30 Sec. 151.854. ADDITIONAL QUALIFICATIONS. In addition to  
 13-31 the general qualifications for licensure set forth in Section  
 13-32 151.202, an applicant for a depository agent license must  
 13-33 demonstrate to the satisfaction of the commissioner that:

13-34 (1) the applicant's financial condition will enable  
 13-35 the applicant to safely and soundly engage in the business of  
 13-36 depository agent services; and

13-37 (2) the applicant does not engage in any activity or  
 13-38 practice that adversely affects the applicant's safety and  
 13-39 soundness.

13-40 Sec. 151.855. APPLICATION AND ACCOMPANYING FEE,  
 13-41 STATEMENTS, AND SECURITY. (a) An applicant for a depository agent  
 13-42 license must submit an application in accordance with Section  
 13-43 151.203.

13-44 (b) At the time an application for a depository agent  
 13-45 license is submitted, an applicant must file with the department:

13-46 (1) an application fee in the amount established by  
 13-47 commission rule;

13-48 (2) audited financial statements that are  
 13-49 satisfactory to the commissioner for purposes of determining  
 13-50 whether the applicant has the minimum net worth required under  
 13-51 applicable rules and is likely to maintain the required minimum net  
 13-52 worth if a license is issued; and

13-53 (3) security in the amount of \$500,000 that meets the  
 13-54 requirements of applicable rules and an undertaking or agreement  
 13-55 that the applicant will increase or supplement the security to  
 13-56 equal the aggregate security required by the commissioner before  
 13-57 the issuance of the license and the start of operations.

13-58 Sec. 151.856. INVESTIGATION AND ACTION ON APPLICATION. The  
 13-59 commissioner shall investigate the applicant and act on the  
 13-60 application in accordance with Sections 151.204 and 151.205.

13-61 Sec. 151.857. TEMPORARY LICENSE. (a) The commissioner may  
 13-62 issue a temporary depository agent license to a person that is  
 13-63 engaging in depository agent services, but has not obtained a  
 13-64 license under this subchapter, if the person:

13-65 (1) certifies in writing that the person qualifies for  
 13-66 the license and will submit a completed license application not  
 13-67 later than the 60th day after the date the temporary license is  
 13-68 issued;

13-69 (2) submits a recent financial statement acceptable to

14-1 the commissioner that reflects the minimum net worth required under  
14-2 applicable regulations;

14-3 (3) provides security that meets the requirements  
14-4 specified by the commissioner, but not less than \$500,000;

14-5 (4) agrees in writing that, until a permanent license  
14-6 is issued, the person will engage only in activities being  
14-7 conducted at existing locations; and

14-8 (5) pays the application fee and a nonrefundable  
14-9 temporary license fee in the amount established by commission rule.

14-10 (b) The effective period for a temporary depository agent  
14-11 license may not exceed 90 days after the date the license is issued.  
14-12 The commissioner may extend the effective period for not more than  
14-13 30 days if necessary to complete the processing of a timely filed  
14-14 application for which approval is likely.

14-15 Sec. 151.858. LIABILITY OF LICENSE HOLDER. A depository  
14-16 agent license holder is liable for the delivery to or for the  
14-17 account of the depository or each depositor, as applicable, of all  
14-18 bullion, specie, and money payable or deliverable in connection  
14-19 with the transactions in which the license holder engages on behalf  
14-20 of the depository.

14-21 Sec. 151.859. TRUST IMPOSED. (a) A depository agent  
14-22 license holder shall hold in trust all cash, bullion, specie, and  
14-23 other assets received in the ordinary course of its business until  
14-24 the time the delivery obligation is discharged. A trust resulting  
14-25 from the depository agent license holder's actions is in favor of  
14-26 the persons to whom such delivery obligations are owed.

14-27 (b) If a depository agent license holder commingles any  
14-28 money or other property received for delivery with money or other  
14-29 property owned or controlled by the depository agent license  
14-30 holder, all commingled money and other property are impressed with  
14-31 a trust as provided by this section in an amount equal to the amount  
14-32 of money or property received for delivery, less the amount of fees  
14-33 paid for the delivery.

14-34 (c) If the commissioner revokes a depository agent license,  
14-35 all money and other property held in trust by the depository agent  
14-36 license holder is assigned to the commissioner for the benefit of  
14-37 the persons to whom the related delivery obligations are owed.

14-38 (d) Money or other property of a depository agent license  
14-39 holder impressed with a trust under this section may not be  
14-40 considered an asset or property of the license holder in the event  
14-41 of bankruptcy, receivership, or a claim against the license holder  
14-42 unrelated to the license holder's obligations under this chapter.

14-43 Sec. 151.860. DISCLOSURE REQUIREMENTS. (a) A depository  
14-44 agent license holder's name and mailing address or telephone number  
14-45 must be provided to the purchaser in connection with each  
14-46 depository agent services transaction conducted by the depository  
14-47 agent license holder.

14-48 (b) A depository agent license holder receiving currency or  
14-49 an instrument payable in currency for transmission must comply with  
14-50 Chapter 278.

14-51 SECTION 13. This Act takes effect immediately if it  
14-52 receives a vote of two-thirds of all the members elected to each  
14-53 house, as provided by Section 39, Article III, Texas Constitution.  
14-54 If this Act does not receive the vote necessary for immediate  
14-55 effect, this Act takes effect September 1, 2015.

14-56 \* \* \* \* \*